

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MATTHEW GIBSON,

Plaintiff,

vs.

Civil Action No. 5:21-cv-00181

Honorable Frank W. Volk

LOUISE E. GOLDSTON, individually,
COUNTY COMMISSION OF RALEIGH
COUNTY, a political subdivision,
JEFF MCPHAKE, individually,
BRIAN WHITE, individually,
BOBBY STUMP, individually,
KYLE LUSK, individually,

Defendant.

JOINT MOTION TO MODIFY THE SCHEDULING ORDER

Now comes the parties, by counsel, pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, and moves the Court to modify the Scheduling Order to extend the deadline for the close of discovery, as well as the dispositive motions deadline, and response to dispositive motions deadline, approximately another thirty (30) days, respectively.

Rule 16(b)(4) of the Federal Rules provides that a “schedule may be modified only for good cause and with the judge’s consent”.

In support of this Motion, the parties state that although both parties have engaged in written discovery requests, neither party has conducted any depositions. There are several reasons for the delay in depositions, including:

a. There are multiple parties and counsel with varying schedules, causing scheduling difficulties prior to February of 2022;

b. The parties had planned to conduct all necessary depositions on February 7 and 9, 2022 and had noticed the same with the Court. However, one of the parties counsel contracted COVID-19 at the last moment, thus requiring the depositions to be postponed;

c. The parties are continuing to discuss settlement possibilities;

d. The parties are optimistic that the remainder of the Scheduling Order can be accommodated without modification.

WHEREFORE, for the above referenced reasons, the parties jointly request and move the Court to grant their motion to modify the Scheduling Order to allow at least another thirty (30) days to conduct additional depositions, as well as to submit dispositive motions and responses to dispositive motions, and for such other and further relief as this Court deems just and fit.

Prepared and tendered to the Court by:

MATTHEW GIBSON,
By Counsel

/s John H. Bryan
John H. Bryan (WV Bar No. 10259)
JOHN H. BRYAN, ATTORNEY AT LAW
411 Main Street
P.O. Box 366
Union, WV 24983
(304) 772-4999
Fax: (304) 772-4998
jhb@johnbryanlaw.com

Reviewed and approved by:

Jennifer E. Tully, Esq.
Jennifer E. Tully, Esq.
Adam K. Strider, Esq.
Bailey & Wyant, PLLC
500 Virginia Street, East, Suite 600
PO Box 3710
Charleston, WV 25337-3710
Counsel for Louise E. Goldston

Kevin J. Robinson, Esq.
J. Victor Flanagan, Esq.
Kevin J. Robinson, Esq.
Pullin Fowler Flanagan, Brown & Poe, PLLC
252 George Street
Beckley, WV 25801
Counsel for Raleigh County Defendants

Arie M. Spitz, Esq.
Kevin A. Nelson, Esq.
Jason L. Holliday, Esq.
Dinsmore & Shohl, LLP
707 Virginia Street, East, Suite 1300
Charleston, WV 25339-1887
Counsel for Kyle Lusk

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MATTHEW GIBSON,

Plaintiff,

vs.

Civil Action No. 5:21-cv-00181
Honorable Frank W. Volk

LOUISE E. GOLDSTON, individually,
COUNTY COMMISSION OF RALEIGH
COUNTY, a political subdivision,
JEFF MCPEAKE, individually,
BRIAN WHITE, individually,
BOBBY STUMP, individually,
KYLE LUSK, individually,

Defendant.

CERTIFICATE OF SERVICE

I, John H. Bryan, do hereby certify that I have delivered a true copy of the foregoing
JOINT MOTION TO MODIFY THE SCHEDULING ORDER has been served upon counsel of
record by using the CM/ECF System, this the 7th of February, 2022 and addressed as follows:

Jennifer E. Tully, Esq.
Adam K. Strider, Esq.
Bailey & Wyant, PLLC
500 Virginia Street, East, Suite 600
PO Box 3710
Charleston, WV 25337-3710
Counsel for Louise E. Goldston

J. Victor Flanagan, Esq.
Kevin J. Robinson, Esq.
Pullin Fowler Flanagan, Brown & Poe, PLLC
252 George Street
Beckley, WV 25801
Counsel for Raleigh County Defendants

Arie M. Spitz, Esq.
Kevin A. Nelson, Esq.
Jason L. Holliday, Esq.
Dinsmore & Shohl, LLP
707 Virginia Street, East, Suite 1300
Charleston, WV 25339-1887

Counsel for Kyle Lusk

/s John H. Bryan
John H. Bryan (WV Bar No. 10259)
JOHN H. BRYAN, ATTORNEYS AT LAW
411 Main Street
P.O. Box 366
Union, WV 24983
(304) 772-4999
Fax: (304) 772-4998
jhb@johnbryanlaw.com